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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 000147

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TAGS: [PHUM](#) [PGOV](#) [KDEM](#) [VE](#)
SUBJECT: POLITICAL PRISONERS -- UPDATE ON SIMONOVIS, VIVAS,
LAZARO TRIAL

REF: A. 06 CARACAS 02826

[1](#)B. 06 CARACAS 03646 AND PREVIOUS

[1](#)C. 06 CARACAS 00461 AND PREVIOUS

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Classified By: POLITICAL COUNSELOR ROBERT DOWNES FOR 1.4 (D)

Summary

[1](#)1. (C) PolOff observed January 18 the latest session of the trial of former Caracas Metropolitan Police officials Ivan Simonovis, Henry Vivas, Lazaro Forero, and eight other former police officers, who are being charged as accomplices to murder for events related to the civil disturbances and the temporary interregnum of April 2002. Post has been following this trial in general terms for some years, but more closely since the Fall of 2006 (Ref A). Post has also listed the 11 defendants as political prisoners in the draft 2006 Human Rights Report. PolOff noted an increase in security and other harrassment seemingly intended to demoralize and wear down the defendants and their families. After two years of detention, the judge ruled in December to keep the defendants in jail, an apparent violation of Venezuelan law requiring their release. While defense lawyers are hopeful that the decision on their continued incarceration may accelerate the acceptance of their case by the Inter-American Human Rights Court, it is unlikely the government will give the officers any breaks. As expected, prosecutors are also trying harder to link the Embassy to the events, claiming that then-Ambassador Shapiro spoke with at least one of the defendants during the April 2002 events. End Summary.

In Pursuit of Justice, Finding Little

[1](#)2. (C) On January 18, PolOff returned to the trial of former police commissioners Ivan Simonovis, Henry Vivas, Lazaro Forero, and eight former Metropolitan Police officers for their alleged participation in shootings related to events on April 11, 2002. This is one of several political trials Post is following closely (Refs B and C). Post also included the 11 defendants as political prisoners in its draft of the 2006 Human Rights Report. The current trial began in March 2006, but the accused have been in prison since November 2004. In November 2006, police officials reached the two-year

detention mark, at which point Venezuelan law calls for them to be released during the remainder of the trial. Although the prosecution neglected to file a motion supporting the defendants' continued detention, the judge ruled against the defense's request for release. The defense submitted an appeal to this decision and while they are waiting for a response, they are not optimistic that the Chavista-led appeals court will rule in their favor.

13. (C) PolOff noted a drastic increase in security, perhaps due to the increased number of spectators the case has drawn or the fact that the prosecution has finally brought in some of its key witnesses. After a year, the court has heard testimony from some 200 prosecution witnesses, none of whom have apparently been able to tie any of the defendants to the shootings, and have 300 more to go. Only one witness testified on the day PolOff attended the trial. The defense has caught several of the prosecution's key witnesses lying. However the judge ruled that she would postpone any decision on perjury charges until the end of the trial.

14. (C) Unlike PolOff's last visit in September, witnesses were not observed arriving with the prosecution, but defense lawyers told PolOff this practice continues. PolOff did observe an increased indifference on the part of the judge and prosecutors. Instead of the trial beginning two hours late as had been the norm, the trial is now beginning four hours later or more, due in part to the absence of the judge and/or prosecutors. Frustrated with the unnecessary delays in start time, the defense complained to the judge.

Attempt to Implicate US Embassy

15. (C) Prosecutors have also tried to link the commissioners, particularly Simonovis who took courses with the FBI and U.S. police forces, to the BRV-concocted theory

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that the United States masterminded the 2002 coup. They are claiming that Simonovis spoke with then-Ambassador Shapiro the day of the coup to confer on strategy. Bony Simonovis, wife and lawyer of Ivan, told PolOff she fears her husband will eventually be charged with civil rebellion because of the U.S. training courses he took and the friendships he has developed with U.S. law enforcement counterparts over the years.

Holding Conditions

16. (C) PolOff was able to talk to the defendants before the trial began. In late December, Forero and Vivas were moved to DISIP (the Venezuelan secret police) headquarters where previously only Simonovis was held, supposedly as an election-related security precaution. Although they are happy with the conditions there, their family members complain of stricter visitation rules. Authorities have also now begun transporting the officers in handcuffs and keeping them in a holding cell until shortly before the trial begins. During PolOff's last visit handcuffs were generally not used and the defendants were allowed to wait in the court room.

Comment

17. (C) The chances of these men being released during trial or acquitted, regardless of what the law or evidence say, is slim, as the conviction of these "tools of the opposition" is key to how Chavez wants the April 2002 coup remembered. The late starts, long days--which sometimes involve ending at 11 pm one day, driving 90 minutes back to Caracas, only to begin the trek back to court again at 6 am--and consistent denials

of legitimate requests are meant to demoralize and wear down the defendants. The court's refusal to release the prisoners in apparent contravention of the law may help advance their case before the Inter-American Human Rights Commission, now that their right to liberty is at stake. However, there is no guarantee the emboldened Chavez will heed any international decision.

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